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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,675	01/25/2002	Kenneth Charles Giese	2001/02	1022

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EXAMINER

TADESSE, YEWEBDAR T

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/056,675	GIESE, KENNETH CHARLES	
	Examiner	Art Unit	
	Yewebdar T Tadesse	1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 12-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,2,4-8,10 and 11 is/are rejected.
- 7) ☒ Claim(s) 3 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 12-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 07/01/2004.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2 and 4-5 is rejected under 35 U.S.C. 102(b) as being anticipated by Najour et al (US 6,379,136). As to claim 1, Najour et al discloses (see Figs 1 and 4; column 12, lines 2-14 and column 14, lines 7-15) an adjustable shroud (adjustable draw jet assembly 27) for use in a melt spinning process having a spinneret (4a, 4c), comprising an adjustable shroud (adjustable draw jet assembly 27) having means (infuser system 17) to secure it in close proximity beneath the spinneret and means to adjust the length of the shroud (means to adjust the distance between the spinnerets and the draw-jet slot of the draw jet assembly 27 and sliding means 56 adjusting the slot extension length). As to claim 2, in Najour et al the adjustable shroud (draw jet assembly) is quadrilateral (see Fig 1). As to claim 4, in Najour et al (see Fig 1) the shroud (draw jet assembly 27) is in the form of nesting walls. As to claim 5, Najour et al

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discloses (see column 12, lines 11-14) a hydraulic or screw jack system for moving the draw jet assembly to adjust the length.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Najour et al (US 6,379,136) as applied to claim 1 above, and further in view of Katou et al (US 5,173,310). Najour et al lacks teaching a shroud (draw jet assembly) containing heating means. Katou et al discloses (see Figs 2 and 4) heating means (9, 17) for the shroud (cooling apparatus 3, 11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include heating means in Najour et al to continuously change the cooling of filaments as taught by Katou et al (see column 2, lines 36-46).

7. Claims 7-8, and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Najour et al (US 6,379,136) in view of Katou et al (US 5,173,310). As to claim 7, Najour et al discloses (see Figs 1 and 4; column 1, lines 6-25; column 12, lines 2-14 and column 14, lines 7-15) the combination of an adjustable shroud and a spinneret, comprising a spinneret (4a, 4c) for producing synthetic fibers; an adjustable shroud (adjustable draw jet assembly 27) for use in a melt spinning process having a spinneret (4a, 4c), comprising an adjustable shroud (adjustable draw jet assembly) having means (infuser system 17) to secure it in close proximity beneath the spinneret and means to adjust the length of the shroud (means to adjust the distance between the spinnerets and the draw-jet slot of the draw jet assembly 27 and sliding means 56 adjusting the slot extension length). However, Najour et al lacks teaching a shroud (draw jet assembly) containing heating means. Katou et al discloses (see Figs 2 and 4) heating means (9, 17) for the shroud (cooling apparatus 3, 11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include heating means in Najour et al to continuously change the cooling of filaments as taught by Katou et al (see column 2, lines 36-46). As to claim 8, in Najour et al the adjustable shroud (draw jet assembly) is quadrilateral (see Fig 1). As to claim 10, in Najour et al (see Fig 1) the shroud (draw jet assembly 27) is in the form of nesting walls. As to claim 11, Najour et al discloses (see column 12, lines 11-14) a hydraulic or screw jack system for moving the draw jet assembly to adjust the length.

Allowable Subject Matter

8. Claims 3 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. There was no reference in the prior art search that disclosed, taught, or suggested, a quadrilateral adjustable shroud for use in a melt spinning process or for producing synthetic fibers, wherein two fixed walls form the quadrilateral shroud with two *folding walls*.

Response to Arguments

9. Applicant's arguments with respect to claims 1-2, 4-8 and 10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yewebdar T Tadesse whose telephone number is (571) 272-1238. The examiner can normally be reached on Monday-Friday 8:00 AM-4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


YTT


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